

THE COMMONWEALTH OF MASSACHUSETTS

TOWN OF WEST TISBURY
ZONING BOARD OF APPEALS

**DECISION OF THE BOARD OF APPEALS ON THE PETITION OF Derek and Brooke Avakian
filed with the West Tisbury Town Clerk on April 17, 2020 ZBA Case File 2020-09**

Applicant: Derek and Brooke Avakian, PO Box 91, Edgartown, MA 02539

Property Owner: Derek and Brooke Avakian, whose title to the property is recorded at the Dukes County Registry of Deeds and described in Book 1507 Page 840, dated October 3, 2019.

Agent: N/A

Locus: 220 Vineyard Meadow Farms Rd, West Tisbury, MA, Assessors Map 37 Lot 21, RU district, 1.4 acres.

Plans: 1) Site Plan prepared by Schofield, Barbini and Hoehn, Inc. dated March 25, 2020.
2) Floor plans and elevations prepared by B. Avakian dated March 25, 2020.
All plans on file at the Zoning Board of Appeals office.

Notice: Certified abutters notified on March 25, 2020 and legal notice advertised in the Martha's Vineyard Times on March 26th and April 2nd 2020.

Hearing & Request: A Public Hearing was held on April 9, 2020 on an Application for a Special Permit from Derek and Brooke Avakian to construct a 20'x40' swimming pool and a 320 sf. pool cabana requiring 10' of setback relief at the southern lot line and to construct a 34'x28' garage with a 2 bedroom accessory apartment above requiring 10' of setback relief on both side lot lines on a non-conforming lot ap 37 Lot 21, 220 Vineyard Meadow Farms Rd., RU District.

Section of Bylaw: 8.5-4 (C), 4.4-3 (A), 11.2-2 and 4.3-3 (D)-*removed per request of the applicant at the hearing.*

Present: Nancy Cole, Larry Schubert, Deborah Wells, John Rau

Recused: Andy Zaikis

Decision: On April 9, 2020 the Zoning Board of Appeals voted to GRANT a Special Permit with CONDITIONS to construct a 20'x40' in ground swimming pool with associated 8'x14' pool equipment enclosure and a 2 bedroom Accessory Apartment above a garage on a nonconforming lot requiring no setback relief under Sections 8.5-4 (C), 4.4-3 (A) and 11.2-2 of the Zoning Bylaws.

Vote to Approve: Nancy Cole, Larry Schubert, Deborah Wells, John Rau

Findings: 1) No setback relief is required for the updated plan submitted at the Public Hearing.
2) The Accessory Apartment will be 782 sf.
3) The applicant is aware of and willing to comply with all regulations of the Pool and Accessory Apartment Bylaws.
4) The plans will be reviewed by the Planning Board for the work sink in the garage.
5) The application complies with Section 9.2-2 Review Criteria of the Zoning Bylaws.

Conditions:

- 1) The applicant and installers must ensure that the barrier fencing is acceptable to the West Tisbury Building Inspector and meets the requirements of the Building Code. The applicants and installers must comply with all other safety requirements and further permitting as required by the West Tisbury Zoning and Building Inspector and Board of Health. The applicant and installers must comply with all requirements as stated in Massachusetts State Building Code (CMR) 780 which regulates the requirements for swimming pools.
- 2) The fencing should be of the height and description as in approved plans and sited as in approved plans. Any changes to the fencing must be approved by the Zoning Board of Appeals.
- 3) Lighting for the pool must conform to Section 8.6 of the West Tisbury Zoning Bylaws, the lighting regulations.
- 4) The initial filling of the pool must be from a mixture of well water and an off-site source of water brought in by tanker. At any time that the pool is substantially or completely drained, the water must be pumped into a tanker and disposed of off-site in a responsible manner and site. The refilling of the pool must be from a mixture of off-site source of water brought in by tanker and well water. This condition must be posted in a visible place for the pool service employees to see. The applicant must ensure that the service company is aware of this condition.
- 5) The applicant and the pool service company must do any minimum maintenance draining of the pool in such a manner as to direct all drainage away from any wells on the property or neighboring property, and away from any wetlands. Drainage must not flow onto neighboring property. Drainage may not occur until such a time that there is no longer any chlorine or other salt content in the water. This condition must be posted in a visible place for the pool service employees to see. The applicant must ensure that the service company is aware of this condition.
- 6) Any changes to the pool application must be approved by the ZBA.
- 7) Temporary or permanent fencing as required by the West Tisbury Building Inspector must be in place before the pool may be filled with water, and the pool installation must be compliant with all State and Local regulations.
- 8) A Landscape Plan which is amenable to the neighbors bordering the property to the North and South must be submitted to the Zoning Board of Appeals for approval prior to the issuance of an Occupancy Permit.

NOTE WELL: It is understood that the applicant will obtain all other permits or authorizations required by the Town of West Tisbury before proceeding with any work.

NO VARIANCE OR SPECIAL PERMIT SHALL TAKE EFFECT UNTIL:

1. **A period of twenty days has elapsed from the date of the filing of the Board's written Decision with the Town Clerk**, and the applicant has received a copy of the Decision bearing the certification of the Town Clerk that a period of twenty days has elapsed from the filing of the Decision and that no appeal has been filed, or the appeal has been denied or dismissed. The **Certified Decision** is recorded

at the Dukes County Registry of Deeds and the recording fee has been paid at the Dukes County Registry of Deeds. **Only Original Documents will be accepted at the Registry.**

2. A receipt for the recording stamped by the Dukes County Registry of Deeds has been returned to the **Building & Zoning Inspector of West Tisbury** or to the office of the **West Tisbury Board of Appeals** who will turn over the receipt to the Building and Zoning Inspector.
3. **The applicants may proceed with applying to the appropriate Town of West Tisbury Officers and Boards for any other development permits which may be required by law.**

Any person aggrieved by the Decision of the West Tisbury Board of Appeals may appeal to Superior Court and must notify the Town Clerk of the action and submit a copy of the complaint within twenty days after the decision has been filed in the office of the Town Clerk.

A Special Permit shall lapse in 2 years if not utilized. A Variance shall lapse in one year if not utilized.

The Building and Zoning Inspector may approve at his discretion, minor changes that come up during the building process. All major changes to the plans or significant material changes must be approved by the Zoning Board of Appeals. Please consult with the Inspector regarding any change. Failure to do so may nullify your permit and may require removal of the unapproved construction.

NOTE WELL: It is understood that the applicant will obtain all other permits or authorizations required by the Town of West Tisbury before proceeding with any work.

Filed with the West Tisbury Town Clerk on April 17, 2020

I certify that no appeal has been made _____